IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3856 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

M/S REMO MARKETING PVT LTD THRO ITS DIRECTOR JITEN JAGVIR

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 3856 of 2003

MR SI NANAVATI, Sr.Counsel with

MR HASHIM QURESHI for Petitioner No. 1-4

MR AD OZA, PUBLIC PROSECUTOR for Respondent No. 1-3

MR JT TRIVEDI for Respondent No. 4

MR BJ TRIVEDI for Respondent No. 4

CORAM : HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 19/04/2004

C.A.V. JUDGEMENT

#. This application is filed under Section 482 of the Code of Criminal Procedure, 1973 ("the Code" for short) for quashing and setting aside the impugned complaint/FIR, being CR NO.I 4 of 2003 registered with the CID (Crime), Gandhinagar on 24.5.2003.

#. A complaint being complaint No.CR I 4 of 2003 was lodged on 24.5.2003 by respondent No.4 - Harendrabhai B.Pandya - complainant before the CID (Crime), Gandhinagar for the alleged cause of bouncing of the cheque of Rs.623/- only punishable under Sections 406, 420 and 120-B of Indian Penal Code and Sections 3, 4 and 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978. On receipt of the said complaint, the concerned Police Inspector forwarded the said complaint to the learned Chief Metropolitan Magistrate Court, Ahmedabad on the same day.

#. It is the case of the applicants that the applicant company has launched "Recharge 4 free.com" scheme in the month of January 2002. The said scheme deals with the websites, email Ids and mobile telephone products. It is the case of the applicants that the applicants have their own server and leadership with mobile companies. The minimum joining fees for each unit in the scheme is Rs.200/- against which the customer gets 30 MB webside/email ID for 30 days and if the customer introduces three members under him the webside/email ID will be with him for life time on lease and in that event there is no need for renewal of rent and he will also bet free membership for mobile users club. Each ID has to develop five levels under the same, for which the customer will get a total of 19690 points in the mobile users club. The applicants have also produced the brochure at Annexure-A in the compilation.

#. It is the case of the applicants that after reading the said brochure, respondent No.4 having been satisfied with the terms and conditions mentioned in the said brochure as well as the terms and conditions mentioned in the application form, had filed up, signed and submitted an application to the applicant company for introducing himself in the scheme offered by the company.

#. It is the case of the applicants that according to the scheme of the company each point is equal to one Indian rupee and the customer can use the amount for purchasing the mobile telephone hand set, prepaid cards or adjust against the payment of the regular bills. For

every joining fee of Rs.200/-, the Company's profit is only Rs.30/- and the remaining Rs.170/- is distributed amongst its customers of different levels as per the scheme. As per the scheme, the customers who make three members under him, is eligible for 100% benefit, otherwise, for no introduction 25%, one introduction 50% and two introductions 75% amount is payable. The said benefit is payable once after 10 months of joining. Those who make three introductions will also be eligible for getting payable amount upto maximum limit of Rs.19,000/-. For making this possible, the Company has introduced birth/rebirth and autopsy for every newly joining customer.

#. It is the case of the applicants that the Company is providing services to the people at large by enabling them to forward and receive emails throughout the world at a very cheaper rate. Anyone who gets associated with the Company on application for membership and on paying the fee, will be entitled for the benefit in respect of the web space in all respects by merely paying Rs.200/-. Thus, the company has introduced a scheme for promoting the sale of web sites and mobile telephones products only. These are the only two products introduced by the Company under the scheme. It is the case of the applicants that as on today approximately 30 lakh people have enrolled as members of the company and have invested about 68 crores in the company out of which the company has distributed approximately Rs.48.00 crores amongst its members. It is also the case of the applicants that the applicant company has also paid franchise commission of Rs.1.00 crore to its dealers and Rs.50.00 lakhs have been paid to the Income Tax Authority towards Advance Tax, and also paid a sum of Rs.85.00 lakhs towards TDS. It is the case of the applicants that the applicant company is having its assets worth Rs.2.00 crores as on date.

#. It is the case of the applicants that as per the scheme, if any customer do not intend to continue with the scheme and utilize benefit provided by the company, then he will be entitled to encash the amount at a discount of 10% and then he would be entitled to get Rs.90/- and out of the said amount of Rs.90/- he would be further liable to pay TDS.

#. Mr.S.I.Nanavati, learned Senior Counsel for the applicants submitted that this is the only complaint against the applicant-company. He submitted that in the past similar nature of complaint was filed against the applicant company before the Court of Metropolitan Magistrate at Bombay wherein the learned Magistrate has

dismissed the complaint under Section 203 of the Code. He submitted that the Bombay High court, relying on the Apex Court Judgment in the case of State of West Bengal and others vs. Swapan Kumar Guha, reported in (1982)1 SCC 561 dismissed the said petition. He submitted that the complainant himself says that money is returned back to him in this case and no monetary loss is caused to him.

#. He submitted that the original complainant is very much aware of the terms and conditions of the scheme. However, he has never applied to the company for refund of the amount which he is required to apply in the form prescribed by the company. He submitted that if respondent No.4 was interested only in getting the money back, he should have applied to the company in the form prescribed, and the company would have paid the requisite amount within seven days to him. In absence of any such application, respondent No.4 has filed the complaint with a mala fide intention and ulterior motive to harass the applicants by making concocted story. He submitted that the dispute involved in the complaint is a civil dispute for which no criminal complaint can be filed and hence the impugned complaint deserves to be quashed and set aside. He submitted that the complainant has entered into the scheme with open eyes after going through the brochure and other documents and, therefore, there is no element of cheating or misappropriation. It is further submitted that the catalogues, brochure and the application form itself have given the exact idea to the prospective customers about the nature of the transaction after becoming member of the company, and, therefore, it can be easily said that there is no fraud, deceit or cheating at all. It is submitted that in the present case, due to lucrative offers respondent No.4 has invested only Rs.5,000/- as per the record of the company; as against that the company has already paid an amount of Rs.1,61,000/- to respondent No.4 and, thus, respondent No.4 has already received much more amount than what he has invested in the company. In his submission, no ingredients of cheating, misappropriation, inducement or criminal breach of trust exist for which the applicants should be punished under the false and fabricated complaint filed by the opponent no.4.

##. He submitted that the contract entered into by the parties is binding to both the parties and non-refund of the amount by the company, would not amount of commission of an offence by any of the applicants and there is no, prima facie, material tendered by respondent No.4 to support his allegation. He submitted that assuming

without admitting that mere refusal of the applicants to refund the amount deposited by respondent No.4 is not sufficient enough to make out any prima facie case for the offence of criminal breach of trust and/or of cheating. He submitted that considering the specific terms and conditions, the transaction between the complainant and the applicants being of contractual nature, and if the complainant is aggrieved by any act on the part of the applicants, it will be an instance of breach of contract for which the remedy ought to be sought by respondent No.4 before the Civil Court.

##. He further submitted that looking to the facts narrated in the complaint, it would not cover under the provisions of Prize Chit and Money Circulation (Banning) Act, 1978 as there is no element of circulation of money for quick or easy money or easy gain to the parties by the said transaction. He submitted that the method adopted by the company is only for promotion of sales as a business strategy and, therefore, the transaction between the applicants and respondent No.4 does not fall under any of the provisions of the Prize Chit and Money Circulation (Banning) Act, 1978. In his submission, therefore, the complaint in question deserves to be quashed and set aside.

##. In support of his arguments, Mr.Nanavati relied upon the decision in the case of State of West Bengal and others V/s Swapan Kumar Guha and others reported in (1982)1 SCC 561 wherein it is held as under :

"(1) The definition of the expression `money circulation scheme' contained in Section 2(c) of the Act does not comprehend within its scope any and every activity "for the making of quick or easy money". Two conditions must be satisfied before a person can be held guilty of an offence under Section 4 read with Sections 3 and 2(c) of the Act. In the first place, it must be proved that he is promoting or conducting a scheme for the making of quick or easy money and secondly, the chance or opportunity of making quick or easy money must be shown to depend upon an event or contingency relative or applicable to the enrolment of members into that scheme. In other words, there has to be a community of interest in the happening of such event or contingency.

A `scheme' is a carefully arranged and systematic programme of action. The systematic programme has to be a consensual arrangement between two or

more persons under which, the subscriber agrees to advance or lend money on promise of being paid more money on the happening of any event or contingency related or applicable to the enrolment of members into the programme. Reciprocally, the person who promotes or conducts the programme promises, on receipt of an advance or loan, to pay more money on the happening of such event or contingency. Therefore, a transaction under which one party deposits with the other or lends to that other a sum of money on promise of being paid interest at a rate higher than the agreed rate of interest cannot, without more, be a `money circulation scheme' within the meaning of Section 2(c) of the Act, howsoever high the promised rate of interest may be in comparison with the agreed rate. He who conducts or promotes a money-spinning project may have manifold resources from which to pay fanciful interest by luring the unwary customer. But, unless the project envisages a mutual arrangement under which, the happening or non-happening of an event or contingency relative or applicable to the enrolment of members into that arrangement is of the essence, there can be no "money circulation scheme" within the meaning of Section 2(c) of the Act.

(2) The police do not have an unfettered discretion to commence investigation under Section 157 of the Code. Their right of enquiry is conditioned by the existence of reason to suspect the commission of a cognizable offence and they cannot, reasonably, have reason so to suspect unless the F.I.R., prima facie, discloses the commission of such offence. If that condition is satisfied, the investigation must go on and the rule in Khwaja Nazir Ahmad case will apply The court has then no power to stop the investigation. On the other hand, if the F.I.R. does not disclose the commission of a cognizable offence, the court would be justified in quashing the investigation on the basis of the information as laid or received."

He also placed reliance on the decision of the Allahabad High Court in the case of Kamal Krishna Chopra & others Vs. State of UP and another, reported in 1999(2) Crimes 162, head-note of which reads as under.:

"Indian Penal Code, 1860-Section 420 and Section

120B-Petition to quash summoning order for offences in complaint - At the stage of summoning of accused, allegations made in complaint have to be presumed to be correct - Accused petitioners were alleged to have launched a Scheme in which public were invited to invest on terms and conditions - Mere breach of promise would not be sufficient to constitute offence - Complainant must establish that accused had no intention whatsoever to keep promise - Mere fact that later on accused turned dishonest and misappropriated whole amount will not lead to interfere that intention from very beginning was fraudulent Mere giving an exaggerated account of scheme could not be said to be cheating - Petitioner company had substantial assets of 250-300 acres of land and had actually planted more than one lac Eucalyptus trees - transaction between parties was of a civil nature."

He placed reliance on the decision of the Supreme Court in the case of S.W.Palanitkar and others Vs. State of Bihar and another, reported in (2002) 1 S.C.C. 241, head-note of which reads as under.:

"A.Penal Code, 1860 - Ss.405 and 406 - Criminal breach of trust - Ingredients of - Mens rea, held, is a necessary ingredient without which a breach of trust may not result in criminal breach of trust.

B. Penal Code, 1860 - Ss.405 and 406 - Complaint under by stockist against his principals Earlier notice claiming payment of Rs. 15 lakhs Issuance of summons, if on facts proper - Neither the complaint nor the statement of witnesses showing that any property was entrusted to any of the accused or that the accused had domain over any property of the complainant which the accused converted to their own use - In such circumstances, the ingredients of S.405 held, were not even prima facie satisfied - Hence, the Magistrate was in serious error in issuing process - Criminal Procedure Code, 1973, Ss.200,202,203 and 204."

He placed reliance on the decision of the Supreme Court in the case of The State of Madhya Pradesh Vs. Mir Basit Ali Khan and others reported in AIR 1971 S.C.1620, head-note of which reads as under.:

" Penal Code (1860), Section 420 - In the absence of misrepresentation or suppression of any material facts with a view to defraud or cheat the public the promoters of a money circulation scheme are not guilty of cheating even if the scheme is speculative and unworkable."

He also placed reliance on the decision of the Bombay High Court in the case of Mr.Virendra N.Shah Vs. The State of Maharashtra and others, delivered on March 19, 2003, wherein in paras 8 and 9 the Bombay High Court has observed as under.:

"8. Reliance has been placed by the respondents on the decisions of this Court dated 10.7.2002 in Criminal Writ Petition no.800 of 2002 Mr.Mahendra s/o Pranlal Mehta V/s State of Maharashtra & Ors. and Criminal W.P.No.834 of 002 Mr.Prashat Kadam V/s The State of Maharashtra (Coram : Tahilramani,J) and on the decision dated 5.9.2002 in Cri.W.P.ZNo.1035 of 2002 M/s Free India Concepts V/s State of Maharashtra (Coram: Parkar,J). It is pointed out on behalf of the respondent nos. 2 to 4 that the said matters viz. Mr.Mahendra Mehta (supra) and Mr.Prashat Kadam (supra) had been carried to the Apex Court and the Apex Court has dismissed the Special Leave to Appeals (Criminal) i.e. Special Leave to Appeal (Cri.) No.3401 of 2002 and Special Leave to Appeal (Cri.) No.3405 of 2002 by orders dated 19.8.2002. The decisions would be applicable to the present cases. In the said cases also the complaint filed by the petitioner under sections 406, 420 r.w.34 and under sections 3 to 5 of the Prize Chits and Money Circulation (Banning) Act were dismissed by the Magistrate. The judgment and order of the Magistrate in the said cases were upheld by this High Court. The facts in the said cases are similar to those in the present case.

9. Considering the various circumstances, in my opinion, merely because the respondents failed to repay the amount of Rs.1200/-, it does not mean that the respondents had intention from the beginning to cheat the complainant or to misappropriate his money. The learned Magistrate has considered all the aspects in detail. I do not find any infirmity in the order dated 10th June 2002 passed by the learned Magistrate whereby he has dismissed the complaint of the

petitioner."

##. On the other-hand, Mr.A.D.Oza, learned Public Prosecutor for respondents Nos.1 to 3 opposed this petition. He has placed on record the affidavit sworn in by Mr.N.D.Parmar, Police Inspector, CID (Crime), Gandhinagar. He submitted that the investigation has indicated that large number of people were lured because of handsome assured return irrespective of the fact whether the members are enrolled down-line or not. He submitted that the scheme is not workable and that the scheme is floated by the applicant company by projecting features which are not part of the scheme. He submitted that the applicants are involved in a big scam involving large number of people and huge amount, and, therefore, this Court may not exercise its jurisdiction under Section 482 of the Code, and, therefore, this petition deserves to be dismissed.

##. In support of his arguments, Mr.Oza placed reliance on the decision of the Apex Court in the case of Rajesh Bajaj Vs. State NCT of Delhi and others, reported in (1993)3 SCC 259, the head-note of which reads as under.:

"Criminal Procedure Code, 1973 - Ss.482 and 2(d),154,155 and 190, 200-Quashing of complaint If averments in complaint prima facie make out a case for investigation the High Court cannot quash the complaint merely because one or two ingredients of the offence have not been stated in detail - Quashing of complaint on ground that the complaint disclosed a commercial or money transaction not justified - Constitution of India, Art.26 - Quashing of criminal proceedings - Penal Code, 1860, Ss.420,417,415."

Mr.Oza also placed reliance on the decision of the Apex Court in case of State of Haryana and others Vs. Ch.Bhajan Lal and others reported in AIR 1992 S.C.604, the head-note (D) of which reads as under.:

"Constitution of India, Art.226 - Cognizable offence - Quashing of investigation - Complaint alleging commission of offence under S.5(1) of Prevention of Corruption Act - Challenge as to Matter relating to serious disputed facts yet to be investigated - Non-filing of written statement by State - Stage premature - Investigation cannot be quashed on basis of denial of statement of party against whom commission of offence is alleged."

Mr.Oza also placed reliance on the decision of the Apex Court in case of State of Bihar Vs. Rajendra Agrawalla reported in 1996 S.C.C. (Cri.) 628, the head-note of which reads as under.:

"The inherent power of the court under Section 482 of the Code of Criminal Procedure should be very sparingly and cautiously used only when the court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the court, if such power is not exercised. So far as the order of cognizable by the Magistrate is concerned, the inherent power can be exercised when the allegations in the first information report or the complaint together with the other materials collected during investigation taken at their face value, do not constitute the offence alleged. At that stage it is not open for the court either to sift the evidence or appreciate the evidence and come to the conclusion that no prima facie case is made out."

##. The complainant - Harendra Bhanushankar Pandya also filed the affidavit. Paras 1 and 2 of the said affidavit reads as under.:

" I had not initiated any move for filing the FIR in question. My name was obtained from the records of the petitioner no. 1 and also, probably from one Shri Anil Godbole, through whom I was enrolled as a member. In fact, the matter relating to the complaint in question was taken down at three places : my residence and at the Mental Hospital Complex, where an office of C.I.D. Crime, Gandhinagar, is situated. I was certainly taken to Gandhinagar, by the vehicle (jeep) of the said department. If the length of the complaint is any indication, such a complaint would certainly need lot of time for the purpose. Ultimately, the complaint was registered at Gandhinagar.

2. I may point out that the total investment of myself, my spouse and my daughter is to the tune of Rs.600/- (i.e.Rs.200/- each). While a cheque of Rs.623/- had been dishonoured by non-payment, as stated in the complaint, the said amount was paid to me by a pay order after I brought it to the notice of the

accused-petitioners, as stated in F.I.R. I and my family members have received a total amount of more than Rs.25,000/- or so under the first scheme. Hence, we were inclined to invest in the same scheme, which was extended and actually invested Rs.19,800/- (Rs.10,200 + Rs.9,600/-). While the payment of further investment is to be received as yet, there has been no monetary loss to me and my family members. As neither I, nor my family members have a mobile phone, as stated in the F.I.R., no facility concerning it can be had by me or my family members."

##. I have given my thoughtful consideration to the submissions advanced by the learned counsel for the respective parties. I have also perused the record placed before me.

##. At this stage, reference is required to be made to the decision of this Court in the matter of Arvind Mills Limited and others Vs. State of Gujarat and others, reported in GLR 2002 vol.3, 2472 wherein this Court (Coram : A.L.Dave,J) has observed in para 25 which reads as under.:

"25. From the above settled legal position, it is clear that the High Court has to exercise its powers while quashing a complaint very sparingly. While exercising the powers, the Court has to examine the complaint and the supporting documents to ascertain whether the offences alleged in the complaint are made out or not. While examining the question of quashment of complaint, the Court is not supposed to sift and evaluate the evidence or to enter into debated questions. The Court has not to examine the truth or otherwise of the allegations made in the complaint since it is a matter of proof. If the material relied on by the complainant requires to be proved, no inference can be drawn on basis of the material to conclude that the complaint is false. The powers of quashing a criminal proceeding can be exercised only when the allegations made in the complaint do not constitute the offence or that the exercise of power is necessary either to prevent the abuse of process of Court or otherwise to secure the ends of justice. Existence of civil dispute per se cannot be a ground for quashing of complaint."

Reference is also required to be made to the decision in

the matter of S.M.Datta V/s State of Gujarat and another reported in (2001) 7 S.C.C.659 wherein the Apex Court observed in para 8 & 9 as under :

"8. As noticed above, there is no contra-note till date sounded by this Court. In the event the FIR does not disclose an offence, question of continuation of the investigation would not arise, since the same would be an utter abuse of the process of court and a harassment, which is unknown to law. In Rajesh Bajaj case this Court however, without a contra-note detailed the method of construing the document (first information report) and stated in para 9 of the Report as below : (SCC pp.262-63)

"9. It is not necessary that a complainant should verbatim reproduce in the body of his complaint all the ingredients of the offence he is alleging. Nor is it necessary that the complainant should state in so many words that the intention of the accused was dishonest or fraudulent. Splitting up of the definition into different components of the offence to make a meticulous scrutiny, whether all the ingredients have been precisely spelled out in the complaint, is not the need at this stage. If factual foundation for the offence has been laid in the complaint the court should not hasten to quash criminal proceedings during investigation stage merely on the premise that one or two ingredients have not been stated with details. For quashing an FIR (a step which is permitted only in extremely rare cases) the information in the complaint must be so bereft of even the basic facts which are absolutely necessary for making out the offence. In State of Haryana V/s Bhajan Lal this Court laid down the premise on which the FIR can be quashed in rare cases. The following observations made in the aforesaid decision are a sound reminder (para 109 of AIR) : (SCC p 379, para 103)

" 103. We also give a note of caution to the effect that the power of quashing a criminal proceeding should be exercised

> very sparingly and with circumspection and that too in the rarest of rare cases; that the court will not be justified in embarking upon an enquiry as to the reliability or genuineness or otherwise of the allegations made in the FIR or the complaint and that the extraordinary or inherent powers do not confer an arbitrary jurisdiction on the court to act according to its whim or caprice."

9. We respectfully record our concurrence therewith. Criminal proceedings, in the normal course of events ought not to be scuttled at the initial stage, unless the same amounts to an abuse of the process of law. In the normal course of events thus, quashing of a complaint should rather be an exception and a rarity than an ordinary rule. The genuineness of the averments in the FIR cannot possibly be gone into and the document shall have to be read as a whole so as to decipher the intent of the maker thereof. It is not a document which requires decision with exactitude, neither is it a document which requires mathematical accuracy and nicety, but the same should be able to communicate or indicative of disclosure of an offence broadly and in the event the said test stands satisfied, the question relating to the quashing of a complaint would not arise. It is in this context, however, one feature ought to be noticed at this juncture that there cannot possibly be any guiding factor as to which investigation ought to be scuttled at the initial stages and investigations which ought not to be so scuttled. The first information report needs to be considered and if the answer is found on a perusal thereof which leads to disclosure of an offence even broadly, law courts are barred from usurping the jurisdiction of the police since the two organs of the State operate in two specific spheres of activities and one ought not to tread over the other sphere."

##. In Medchl Chemicals & Pharma (P) Ltd. Vs. Biological E.Ltd & Ors., JT 2000(2) SC 426 : 2000 (3) SCC 269, the Apex Court observed that mere fact that the offence was committed during the course of commercial transaction by itself is not sufficient to quash the complaint.

##. The applicants have raised manifold contentions, as stated above. On careful reading of the complaint it cannot be said that the complaint does not disclose the commission of any offence but the complaint would suggest that the offences alleged are constituted. The allegations made in the complaint are correct or otherwise have to be decided on the basis of the evidence to be led at the trial. Therefore, it cannot be said that the proceedings initiated was clearly an abuse of the process of the Court. It is pertinent to note here that the chargesheet is also filed by the Investigating Officer, copy of which is also produced at page 53 in the compilation.

##. If the aforesaid principle is applied to the present case, existence of civil dispute by itself cannot be a ground for quashing the complaint. Even the applicants want quashing of complaint mainly on the ground that the complaint is purely of civil nature and has been filed with a mala fide intention and ulterior motive to harass the applicants. As submitted by Mr.Nanavati that the complaint is a civil dispute for which no criminal complaint can be filed, but that does not necessarily mean that the said transaction would rule out the possibility of a criminal action on the part of the parties. Pratibha Rani Vs. Suraj Kumar reported in 1985 (2) SCC 370 was referred to by the Apex Court and it was observed that both criminal law and civil law remedy can be pursued in diverse situations. In the said decision, it was observed by the Apex Court that both civil and criminal remedy are not mutually exclusive but clearly co-extensive and essentially differ in their content and consequence. Considering the settled legal position, I am of the opinion that merely because the dispute is of a civil nature, it would not be appropriate to quash the complaint at this stage. Another contentions raised by the applicants for supporting their case for quashing of the complaint are that the complaint does not disclose ingredients of any offence alleged in the complaint.

##. It is also well settled that if the Court on a consideration of relevant materials is satisfied that no offence is made out, it is the duty of the Court to interfere with the investigation and to stop the same to prevent any kind of unwarranted and unnecessary harassment to an individual. It is now well settled that the power of quashing a criminal proceedings should be exercised very sparingly and with circumspection and that too in the rarest of rare cases or otherwise to secure the ends of justice.

##. Considering the facts and circumstances of the case as well as considering the judgments of the Apex Court referred to hereinabove, it signify one principle rule that the complaint ought not to be quashed at the initial stages unless it is termed to be an abuse of the process of the Court. The complaint in question in my opinion, cannot be said to be an abuse of the process of the Court. That is the limit of the power to be exercised by this court under Section 482 of the Code of Criminal Procedure. This court is not concerned with the truth or otherwise of the allegations made in the complaints that would be investigated at the time of the trial.

##. In the premises mentioned hereinabove and considering the judgments of the Apex Court referred to above, this petition fails and the same is dismissed. Rule is discharged.

(Sharad D.Dave,J)
(pathan)